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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,715	12/10/2003	Avery Levy	30940-101	9741
26486	7590	10/31/2005	EXAMINER	
PERKINS, SMITH & COHEN LLP ONE BEACON STREET 30TH FLOOR BOSTON, MA 02108			ARYANPOUR, MITRA	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/733,715	LEVY, AVERY
Examiner	Art Unit	
Mitra Aryanpour	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on 04 August 2005.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

- 4)  Claim(s) 1-212 is/are pending in the application.  
4a) Of the above claim(s) 1-32 and 62-212 is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 33-61 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 10 December 2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date *10 December 2003*.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other:

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 1-32 and 62-212 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 04 August 2005.

### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. *It is not sufficient to merely identify the various claimed elements by arrows and/or circles.* Therefore, *every claimed element* must be appropriately shown or the feature(s) canceled from the claim(s). No new matter should be entered. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “16” has been used to designate both trampoline(s) (see paragraph [0023 and 0024]) and stand (see paragraph [0021]); and because reference character “32” has been used to designate both inflexible surface [0026] and hydraulic pistons (see paragraph [0026]). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: feeder mechanism 62 (see figure 5A). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the

applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

5. The use of the trademark SLAMBALL has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks. see paragraphs [0004], [0007], [0010], [0011] and [0034].

6. The abstract of the disclosure is objected to because on line 1, "a" should be deleted after "comprising"; on line 2, "the" should be deleted before "playing" and "areas" should be singular. Correction is required for the above objections. See MPEP § 608.01(b).

7. The disclosure is objected to because of the following informalities: in paragraph [0009], line 3 "other" should be changed to --another--; paragraph [0028] line 25, "slams" should be singular; paragraph [0028] line 26, "tries" should be singular. Appropriate correction is required for the above objections.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 33-39, 60 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon (6,682,444) in view of Mirando et al (5,482,699).

Regarding claims 33-39, Gordon shows a ball game system, comprising: a planar playing surface (flat playing surface 102) including a resilient surface (resilient surface 104) adjacent one or more deformable elastic surfaces (deformable-elastic surface 106); a hoop (elevated goal 122) proximate an end of the playing surface; means for adjusting the elasticity of rebounds provided by the one or more deformable-elastic surfaces and means for controlling the elasticity adjusting means (see column 6, lines 14-32, and lines 66-67; and column 7, lines 1-39). Gordon does not disclose expressly the playing field having a payment receiving means. Coin operated mechanisms are conventional and commercially available for use in various types of games including amusement games. Such is taught by Mirando et al. Mirando et al shows a basketball type game having a typical coin operated mechanism (82). Upon inserting a coin or any conventional payment means, typically a control mechanism releases balls to a player. Using a control panel (80) the player is able to operate the game. The game is given a predetermined playing time and at the end of each game the points are tallied based on player achievement and visually displayed. Typically sounds are generated for player amusement or alternatively instructional sounds are provided to aid the user. In view of Mirando et al it would have been obvious to include a coin-operated mechanism for the ball game system of Gordon so that the playing time for each group is predetermined by the payment amount.

Gordon further shows the perimeter of the playing surface can be provided with padding and the first and second playing surfaces can be any desired shape including rectangular, square, circle triangle etc. Gordon further shows the deformable elastic surfaces comprise trampolines

which include a flexible fabric connected about the perimeter by a plurality of springs, wherein the elasticity adjustment means can be selected from the group comprising hydraulic or pneumatic shock absorbers (see column 9, lines 34-47). Gordon does not expressly disclose the particular structure for the hydraulic or pneumatic mechanism. However, one skilled in the art would understand the hydraulic system would include a plurality of pistons and would further include pressurized chambers in order to be able to adequately operated.

Gordon further shows the ball game system can have one or more basketball type goals (122). As it is well known basketball hoops are attached to backboards, both being adjustable to accommodate various needs of players.

10. Claims 40-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art of record as applied to claim 33 above, and further in view of Simpson et al (5,776,018).

Regarding claims 40-45, Simpson et al further shows a ball feeder for delivering a ball to a point about the planar playing surface, the delivery controlled by the control means in response to the payment received, a ball collector for conveying balls passing through the hoop to the ball feeder. The ball collector comprises netting (basket net 34) disposed circumferentially below the hoop and forming a channel of sufficient diameter to accommodate the ball passing through the hoop. The ball feeder allows for selection of ball speed and ball delivery trajectory. The ball feeder includes a ball counter and the payment entitles a player to a predetermined number of balls delivered from the ball feeder (see document in its entirety). In view of Simpson it would have been obvious to provide a ball feeder for the game system of Gordon so the basketballs are delivered to the players one-at-a-time in a controlled manner.

Regarding claims 46-58, Simpson et al further comprising a plurality of sensors

outputting to the control means position and trajectory information related to individual players and ball, wherein the control means creates an output responsive to the movement of each player, scoring sensor number of balls passed and/or missed; an output is provided which comprises visual display of player metrics, the metrics presented in a specified time (see figure 7). Control means output represents a comparison of respective performance of one or more players (column 9, lines 18-34). Additionally, in view of Simpson it would have been obvious to sensors associated with the ball feeder for the game system of Gordon so player information can be gathered and printed out or displayed for immediate analysis and use and, if desired, stored for future reference. Both the player and the coach can use this information to help tailor workouts to the maximum advantage.

Regarding claim 59, Gordon as modified above does not expressly disclose the use of a camera controlled by the control means for recording activity on the playing surface. The Examiner takes Official Notice that it is well known to use video cameras to capture in real time the image of a player when training or practicing. The purpose of the camera being so the video can be played back to the player in order to analyze player's movements.

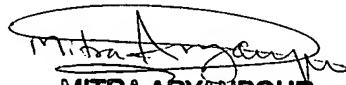
*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 10:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

25 October 2005



MITRA ARYANPOUR  
PRIMARY EXAMINER